

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action dated May 31, 2006. Claims 1-25 are pending in the present application. Claims 1-25 have been rejected. Claims 1, 5, 12, 16, and 23 have been amended to further define the scope and novelty of the present invention and to correct claim dependencies, in view of the Examiner's comments, in order to place the claims in condition for allowance. Support for the amendments to the claims 1 and 12 are found in original dependent claim 4 and on page 6, lines 11-23. Applicants respectfully submit that no new matter has been presented. Claims 4 and 15 have been canceled. Accordingly, claims 1-3, 5-14, and 16-25 are pending. For the reasons set forth more fully below, Applicants respectfully submit that the claims as presented are allowable. Consequently, reconsideration, allowance, and passage to issue are respectfully requested.

Double Patenting/Terminal Disclaimer

The Examiner has stated:

Claims 1-11 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/733,592.... This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

In response, Applicants will file a terminal disclaimer upon determinability of allowance of the claims in view of the prior art.

Claim Rejections - 35 U.S.C. §102

The Examiner has stated:

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being unpatentable by Farrow (6,674,295).

As to claim 1, Farrow discloses a computer readable medium containing program instructions for establishing a network connection between a client system and a network, the program instructions for:

- (a) collecting real time connectivity information by the client system (column 1, lines 29-34); and**
- (b) utilizing the real time connectivity information by the client system to establish a connection with the network (column 1, lines 29-30).**

As to claim 3, Farrow discloses a computer readable medium of claim 1 further comprising:

- (c) utilizing data from a server based database to establish a connection to the network (column 1, lines 31-34).**

Claims 1, 3 and 12 are rejected under 35 U.S.C. 102(b) as being unpatentable by Hibbard (2001/0056503).

As to claim 1, Hibbard discloses a computer readable medium containing program instructions for establishing a network connection between a client system and a network, the program instructions for:

- (a) collecting real time connectivity information by the client system (Page 2, paragraph 0020, lines 1-4); and**
- (b) utilizing the real time connectivity information by the client system to establish a connection with the network (Page 2, paragraph 0023, lines 6-9).**

As to claim 2, Hibbard discloses the computer readable medium of claim 1, further comprising:

- (c) utilizing data from a local persistent knowledgebase to establish a connection to the network (Page 2, paragraph 0023, lines 4-6).**

As to claim 12, Hibbard discloses a computer system coupled to a network comprising:

- at least one network adapter for monitoring and collecting real time connectivity information from the network (Page 2, paragraph 0020, lines 1-4);**
- memory for storing the real time connectivity information (Page 2, paragraph 0024, lines 4-6); and**
- a processor coupled to the memory and to the at least one network adapter, wherein the processor is configured to execute program instructions for utilizing the real time connectivity information to repair a failed network connection between the computer system and the network (Page 2, paragraph 0019).**

Applicants respectfully traverse the Examiner's rejections. The present invention provides a method for establishing a network connection between a client system and a network. In accordance with the present invention, the method includes collecting real time connectivity information by the client system. The collecting step includes monitoring and collecting network traffic in real time, assigning a weight to the real time network traffic based on popularity, and creating a weighted list from the weighted real time network traffic. The method further includes utilizing the real time connectivity information by the client system to establish a connection with

the network. Farrow, Hibbard, and Tang do not teach or suggest these features, as discussed below.

Farrow discloses a method and apparatus for managing IP addressing in network and effectively synchronizing communication between a central database and one or more servers such as Domain Name Service (DNS) and Dynamic Host Configuration Protocol (DHCP) servers. (Abstract.)

Hibbard discloses a network interface device having primary and backup interfaces for automatic dial backup upon loss of a primary connection and method of using same. A network interface device to connect a network to a virtual private network comprises a primary interface to a public network, such as an Ethernet interface to a WAN or the Internet, and a secondary, back-up interface to the public network. The secondary back-up connection is activated automatically when the primary connection fails. The network interface device may be provided with further functionality that enables secure communication over both the primary and secondary connection. (Abstract.)

Tang discloses a system and method for treating a VoIP call in a special fashion when the call is to be routed from an originating gateway to a destination gateway over the Internet. The system and method make use of a special decline destination gateway which may be configured to return a special cost code to the originating gateway when the originating gateway attempts to establish a telephone call with the decline destination gateway. A routing controller of the system would provide the originating gateway with a list of potential destination gateways, and the decline destination gateway would always be the last entry on the list. This would cause the originating gateway to first attempt to place the call through the other potential destination

gateways. If none of the other destination gateways can be used, the originating gateway will ultimately attempt to place the call through the decline destination gateway. When the originating gateway receives back the special cost code from the decline destination gateway, the originating gateway would know to treat the call in a special fashion. In some embodiments, the decline destination gateway itself might treat the call in the special fashion. (Abstract.)

Independent claims 1 and 12 have been amended to incorporate the features of dependent claims 4 and 15, respectively. The Examiner has rejected original dependent claim 4, which recites “monitoring and collecting network traffic in real time,” “assigning a weight to the real time network traffic based on popularity,” and “creating a weighted list from the weighted real time network traffic.” The Examiner has not asserted that Farrow discloses these features. Applicants agree with the Examiner that Hibbard does not disclose these features.

The Examiner has referred to Tang as disclosing these features. More specifically, the Examiner has referred to page 7, paragraph [0081], lines 7-9, of Tang as disclosing “assigning a weight to the real time network traffic based on popularity,” and has referred to page 9, paragraph [0108], lines 9-11, as disclosing “creating a weighted list from the weighted real time network traffic.”

However, page 7, paragraph [0081], lines 7-9, of Tang merely mentions that “IP address information may be ranked in a particular order in recognition that some destination gateways may offer more consistent or superior IP quality.” Nowhere does this section of Tang mention “assigning a weight to the real time network traffic based on popularity” as in the present invention.

Furthermore, page 9, paragraph [0108], lines 9-11, of Tang merely mentions that a “combination of cost and quality could be used to rank the potential routes” and that “the ranked list of potential routes could then be provide to the requesting gateway.” This section of Tang does not mention or suggest “creating a weighted list from the weighted real time network traffic” as in the present invention.

Therefore, Hibbard even when combined with Tang does not teach or suggest the combination of steps as recited in amended independent claims 1 and 12, and these claims are thus allowable over the cited references.

Independent claim 23

Similar to amended independent claims 1 and 12, amended independent claim 23 recites a memory that “monitors and collects network traffic in real time; assigns a weight to the real time network traffic based on popularity; and creates a weighted list from the weighted real time network traffic.” As described above, with respect to amended independent claims 1 and 12, Hibbard even when combined with Tang does not teach or suggest these features. Accordingly, the above-articulated arguments related to amended independent claims 1 and 12 apply with equal force to claim 23. Therefore, claim 23 is allowable over the cited references for at least the same reasons as claims 1 and 12.

Claim Rejections - 35 U.S.C. §103

The Examiner has stated:

Claims 4-6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Hibbard taken in view of Tang (2006/0092926)...

Applicants respectfully disagree with the Examiner's rejections. Dependent claims 5, 6, and 13 depend from independent claims 1 and 12, respectively. Accordingly, the above-articulated arguments related to amended independent claims 1 and 12 apply with equal force to claims 5, 6, and 13, which are thus allowable over the cited references for at least the same reasons as claims 1 and 12.

Dependent claims

Dependent claims 2-3, 5-11, 13-14, 16-22, and 24-25 depend from amended independent claims 1, 12, and 23, respectively. Accordingly, the above-articulated arguments related to amended independent claims 1, 12, and 23 apply with equal force to claims 2-3, 5-11, 13-14, 16-22, and 24-25, which are thus allowable over the cited references for at least the same reasons as claims 1, 12, and 23.

Conclusion

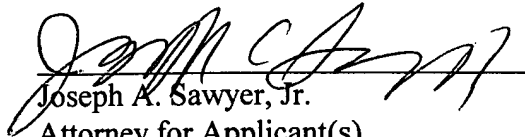
In view of the foregoing, Applicants submit that claims 1-25 are patentable over the cited references. Applicants, therefore, respectfully request reconsideration and allowance of the claims as now presented.

Applicants' attorney believes that this application is in condition for allowance. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted,

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Date


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